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DATE: November 5, 2004			CLIENT-MATTER NO.: 22930-06067			
<b>TO:</b>						
NAME		FAX NO.		PHONE NO.		
Examiner Elaine L. Gott Group Art Unit 3627 Commissioner for Patents		(703) 872-9306		(703) 308-6391		
<b>FROM:</b> Colleen V. Chien Reg. No. 55,062						
<b>PHONE:</b> (415) 875-2319						
<b>SENT BY:</b> TIMOTHY BELL						
<b>PHONE:</b> (415) 875-2445						
NUMBER OF PAGES WITH COVER PAGE: 9				ORIGINAL WILL NOT FOLLOW		
<b>MESSAGE:</b>						
Application No.: 09/863,801 Filing Date: May 22, 2001 Inventor(s): Tom Van Horn et al Title: Advertising Product Inventory Groupings for Sales in a Group-Buying Environment Examiner: Dr. Elaine L. Gott Group Art Unit 3627 Please See Attached Amendment B Under 37 C.F.R. § 1.41.33(a).						
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PAGE 19 RCVD AT 11/5/2004 7:47:02 PM Eastern Standard Time SVR:USPTO-EFXXRF-6/27 *DNIS:2738300 *CSID:4152811350 *DURATION (mm:ss):10:28						

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## MESSAGE:

Application No.: 09/865,801  
 Filing Date: May 22, 2001  
 Inventor(s): Tom Van Horn et al.  
 Title: Attaining Product Inventory Groupings for Sales in a Group-Buying Environment  
 Examiner: Dr. Elaine L. Gert  
 Group Art Unit: 3627  
 Please See Attached Amendment B Under 37 C.F.R. § 1.41.33(a).

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22930-06067/21-2131733-1



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## TO:

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Examiner Elaine L. Gort Group Art Unit 3627 Commissioner for Patents	(703) 872-9306	(703) 308-6391

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NUMBER OF PAGES WITH COVER PAGE: 9

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## MESSAGE:

Application No.: 09/863,801  
Filing Date: May 22, 2001  
Inventor(s): Tom Van Horn *et al.*  
Title: Attaining Product Inventory Groupings for Sales in a Group-Buying Environment  
Examiner: Dr. Elaine L. Gort  
Group Art Unit: 3627

*Please See Attached Amendment B Under 37 C.F.R. § 1.41.33(a).*

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<b>TRANSMITTAL FORM</b> (to be used for all correspondence during pendency of filed application)	Application Number	09/863,801
	Filing Date	May 22, 2001
	First Named Inventor	Tom Van Horn et al.
	Group Art Unit Number	3627
	Examiner Name	Elaine L. Gort
Total Number of Pages in This Submission	8	Attorney Docket Number 22930-06067

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REMARKS:

## SIGNATURE OF ATTORNEY OR AGENT

Signature:	<i>Colleen V. Chien</i>	
Attorney/Reg. No.:	Colleen V. Chien, Reg No. 65,062	Dated: 9/5/04

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22930/06067/SF/3131730.1

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## IN THE UNITED STATES PATENT

## AND TRADEMARK OFFICE

APPLICANTS: Tom Van Horn, Richard V. Halbert and Linda S. Perkins  
SERIAL NO.: 09/863,801  
FILING DATE: May 22, 2001  
TITLE: Attaining Product Inventory Groupings For Sales In A Group-Buying Environment  
EXAMINER: Elaine L. Gort  
GROUP ART UNIT: 3627  
ATTY. DKT. NO.: 22930-06067

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Dated: 11/9/04

By: 

Colleen Chien, Reg. No. 55,062

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AMENDMENT B UNDER 37 C.F.R. § 1.41.33

Sir:

This amendment is being made in accordance with 37 C.F.R. § 1.41.33(a) after the filing of a Notice of Appeal and before the filing of an Appeal brief pursuant to 37 C.F.R. § 41.37.

Please amend the claims as indicated herein.

IN THE CLAIMS:

Claims 1 and 6 are amended herein. Claims 10-11, 13-20, 31-33, and 36 are cancelled. All pending claims and their present status are produced below.

1. (Currently Amended) A method for sourcing a featured item for an on-line group-buying sale, comprising:

communicating to a supplier a featured item quantity and a featured item time reservation;

receiving the supplier's consent to reserve the featured item quantity for the negotiated featured item time reservation for sale in the on-line group-buying sale;

conducting an on-line group-buying sale for the featured item during the featured item time reservation, selling at least a portion of the featured item quantity to one or more buyers; and

supplying the featured items sold in the on-line group-buying sale to one or more buyers by instructing the supplier to provide the items to one or more buyers.

2. (Original) The method of claim 1, further comprising:

executing a binding agreement with the supplier regarding the featured item quantity and the featured item time reservation, wherein the binding agreement requires the supplier to retain the featured item quantity for the featured item time reservation.

3. (Original) The method of claim 2, further comprising:

providing the supplier with consideration in exchange for the supplier's execution of the binding agreement.

4. (Original) The method of claim 3 wherein the consideration is at least one of a reserve price, an agreement to reserve another featured item, and a deposit.

5. (Original) The method of claim 1, further comprising:

communicating to the supplier payment terms regarding the featured item to be sold during the on-line group-buying sale before conducting the on-line group-buying sale; and  
paying the supplier for a number of featured items sold during the on-line group-buying sale.

6. (Currently Amended) A method for sourcing a featured item for an on-line group-buying sale, comprising:

receiving from a seller a featured item quantity and a featured item time reservation;  
negotiating with the seller to determine a featured item quantity and a featured item time reservation;  
executing a binding agreement with the seller regarding the featured item quantity and the featured item time reservation, wherein the binding agreement requires ~~the seller to reserve~~ reservation of the featured item quantity for the featured item time reservation for sale in the on-line group buying sale;  
receiving a confirmation of the sale of a featured item in an on-line group-buying sale; and  
supplying a featured item sold during the on-line group-buying sale responsive to instructions from the seller.

7. (Original) The method of claim 6, further comprising:

retrieving the number of featured items sold during the on-line group-buying sale from a warehouse; and  
packaging the number of featured items sold during the on-line group-buying sale for shipment to buyers.

8. (Original) The method of claim 6, further comprising:

receiving consideration from the seller in exchange for executing the binding agreement.



9. (Original) The method of claim 8 wherein the consideration comprises at least one of a reserve price, an agreement to reserve another featured item, and a deposit.

10-11. (Cancelled)

12. (Original) The method of claim 6, further comprising:

communicating to the seller payment terms regarding the featured items to be sold during the on-line group-buying sale.

13-20. (Cancelled)

21. (Previously Added) The method of claim 1 wherein the featured item is sold in the on-line group-buying sale at the same price to all buyers of the featured item.

22. (Previously Added) The method of claim 6 wherein the featured item is sold in the on-line group-buying sale at the same price to all buyers of the featured item.

23. (Previously Added) A method for sourcing an item for an on-line group-buying sale, the method comprising:

reserving a specified quantity of the item for a specified period of time for sale in the on-line group-buying sale with a supplier of the item;

selling a plurality of the items during the specified period of time to a plurality of buyers in the on-line group-buying sale; and

supplying the items bought by buyers in the on-line group-buying sale to the buyers by instructing the supplier to provide the featured items to the buyers.

24. (Previously Added) The method of claim 23 wherein the featured item is sold in the on-line group-buying sale at the same price to all buyers of the featured item.

25. (Previously Added) The method of claim 23 wherein reserving a specified quantity of the item during a specified period of time further comprises forming an agreement with the supplier in which consideration is provided to the supplier in exchange

for the supplier's commitment to reserve the specified quantity of the item during the specified period time.

26. (Previously Added) The method of claim 23 further comprising reserving the specified quantity of the item at a specified price.

27. (Previously Added) The method of claim 23 further comprising the step of using a computer-implemented system to reserve the specified quantity of the item during the specified period of time with the supplier.

28. (Previously Added) The method of claim 27 further comprising the step of using the computer-implemented system to compensate the supplier for the items supplied by the supplier to buyers in the on-line group-buying sale.

29. (Previously Added) The method of claim 23 further comprising the step of forming an option contract with a supplier of the item, the option for the seller to purchase the specified quantity of the item for the specified period of time and expiring after an option period.

30. (Previously Added) The method of claim 29, further comprising wherein the featured item is sold in the on-line group-buying sale at the same price to all buyers of the featured item.

31-32. (Cancelled)

33. (Previously Added) A method of selling quantities of an item, the method comprising:

forming an option contract to obtain an option to purchase a quantity of an item during an option period;

receiving, during the option period, individual offers from buyers each for an individual quantity of the item at an individual unit price;

aggregating individual offers from the buyers to form an aggregated offer having an aggregated quantity of the individual quantities of the offers;

responsive to an aggregated offer for a quantity of the item above a starting quantity, lowering the unit price of the item below a starting unit price; and  
accepting a final aggregated offer for a final quantity of the item at a final unit price, wherein accepting the final aggregated offer automatically executes contracts to sell the item to all the buyers whose offers are reflected in the final aggregated offer, wherein the contracts with the buyers are at the same final unit price and are for the individual quantities requested in the buyers' individual offers.

34. (Previously Added) The method of claim 33 further comprising the steps of: receiving individual offers from buyers in an on-line group buying sale; and accepting a final aggregated offer for a final quantity of the item, thereby consummating an on-line group buying sale.

35. (Previously Added) The method of claim 33 further comprising the step of using a computer-implemented system to execute contracts to sell the item to all the buyers whose offers are reflected in the final aggregated offer.

36. (Cancelled)

**REMARKS**

All previously pending claims were rejected in the Office Action dated October 22, 2003. As authorized by 37 C.F.R. § 1.116, claims 1 and 6 have been amended in order to present the claims in a better form for consideration on appeal. Claims 10-11, 13-20, 31-33, and 36 have been canceled.

On May 4, 2004, Applicants' representatives had a telephone interview with the Examiner and the Examiner's supervisor. During this interview, the parties discussed claim 1, its rejection under §103 in the Office Action dated March 16, 2004 by a combination of US Patent 6,418,415 (Walker) and the 2<sup>nd</sup> Restatement of Contracts (the Restatement), and the differences between claim 1 and the cited references. In addition, in connection with Walker, Applicants' representatives provided Examiners with an excerpt from a Priceline 10-K document contemporaneous with the filing of the present patent application as evidence that Priceline in fact used a different mechanism than the claimed invention. Agreement was not reached regarding these issues, leading to the filing of a Notice of Appeal by Applicants on September 15, 2004.

Respectfully submitted,

Tom Van Horn *et al.*

Dated: \_\_\_\_\_

11/5/04

By: \_\_\_\_\_

*Colleen V. Chien*

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